

REMARKS

Applicant respectfully requests reconsideration of this application as amended.

Applicant was reminded of the proper language and format for an abstract of the disclosure.

A paragraph within the specification has been objected to as having an errant instance of an extra word "is" within its text.

Claims 1, 3-12, 14-20, 22-26, 28 and 30 are pending in this application.

Claim 3 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Claims 1-3, 8-10, 20-21 and 24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,356,965 issued to Broyles et al (hereinafter referred to as "Broyles").

Claims 4-7, 11, 22-23 and 25 were rejected under 35 U.S.C. §103(a) as being considered unpatentable over Broyles.

Claims 12-19 were deemed to constitute the method oriented to the apparatus disclosed in claims 1-11, and were rejected under the same rationale as claims 1-11.

Claims 26-30 were deemed to be oriented to computer readable mediums for the apparatus disclosed in claims 1-11, and were rejected under the same rationale as claims 1-11.

Claims 2, 13, 21, 27 and 29 have been cancelled.

Claims 1, 3, 12, 15-17, 20, 26 and 28 have been amended.

The forgoing amendments and the following arguments are provided to impart precision to the claims, by more particularly pointing out the invention, rather than to avoid prior art.

Amendment of the Abstract

The Office Action restated portions of the MPEP regarding the language and format of the abstract of the disclosure. Applicant gratefully acknowledges this, and Applicant has amended seeking to comply more completely with the requirements for the abstract.

Objection to the Specification

The Office Action states that "'is' should be deleted" in paragraph [0019] on page 9. Applicant gratefully acknowledges the Examiner's noting of this typographical error, and Applicant has amended this paragraph to correct this.

35 U.S.C. §112 Rejection of Claim 3

The Examiner has rejected claim 3 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention due to lack of antecedent basis for "the computer" in claim 3. Claim 3 has been amended to correct the typographical error leading to this lack of antecedent basis.

Applicant respectfully submits that claim 3, as amended, is also in condition for allowance.

35 U.S.C. §102(e) Rejection of Claims 1-3, 8-10, 20-21 and 24

The Examiner has rejected claims 1-3, 8-10, 20-21 and 24 under 35 U.S.C. §102(e) as being considered to be anticipated by Broyles. Applicant has cancelled claims 2 and 21, thereby obviating this rejection of these claims. However, Applicant respectfully submits that claims 2 and 21 were not anticipated by Broyles, and that claims 1, 3, 8-10, 20 and 24 are not anticipated by Broyles,

because Broyles does not teach each and every element of Applicant's invention as claimed.

Regarding claim 1, the Office Action asserts that Broyles discloses an apparatus having a processor, a port to connect an input device, firmware containing software to support the input device, and which loads the software supporting the input device when a switch is pressed when the apparatus is off. However, Broyles does not disclose conditioning the loading of software to support an input device contained in firmware on the pressing and holding of a switch for a predetermined period of time as recited in claim 1 as originally filed. Broyles discloses the altering of a boot sequence in response to the pressing of a hotkey on an input device, and discloses a keyboard as an exemplary input device. Furthermore, Broyles does not disclose conditioning the loading of software to support an input device that may be coupled to a port on the pressing and holding of a power switch for a predetermined period of time as recited in claim 1 as amended. For at least these reasons, Applicant respectfully submits that claim 1 is patentably distinguished over Broyles.

Although Applicant has cancelled claim 2, Applicant does respectfully submit that although Broyles discloses a power switch, as previously discussed, Broyles does not disclose the loading of software to support an input device being conditioned on the holding of a power switch for a predetermined period of time.

Regarding claim 3, the Office Action asserts that Broyles discloses the running of software residing in firmware memory if a switch is pressed when the apparatus is off. However, Broyles does not disclose conditioning the execution of setup software on the pressing and holding of a switch, including a power switch, for a predetermined period of time as recited in claim 3 as amended. Furthermore, claim 3 depends from independent claim 1, which Applicant has

previously asserted is patentably distinguished over Broyles. For at least these reasons, Applicant respectfully submits that claim 3 is patentably distinguished over Broyles.

Regarding claims 8-10, these claims depend, directly or indirectly, from independent claim 1, which Applicant has previously asserted is patentably distinguished over Broyles. For at least this reason, Applicant respectfully submits that claims 8-10 are patentably distinguished over Broyles.

Regarding claim 20, the Office Action asserts that Broyles discloses an apparatus, having a processor, firmware containing setup software, and which loads the setup software when a switch is pressed when the apparatus is off. However, Broyles does not disclose conditioning the loading of setup software contained in firmware on the pressing and holding of a switch for a predetermined period of time as recited in claim 20 as originally filed. Broyles discloses the altering of a boot sequence in response to the pressing of a hotkey on an input device, and discloses a keyboard as an exemplary input device. Furthermore, Broyles does not disclose conditioning the loading of setup software on the pressing and holding of a power switch for a predetermined period of time as recited in claim 20 as amended. For at least these reasons, Applicant respectfully submits that claim 20 is patentably distinguished over Broyles.

Although Applicant has cancelled claim 21, Applicant does respectfully submit that although Broyles discloses a power switch, as previously discussed, Broyles does not disclose the loading of software to support an input device being conditioned on the holding of a power switch for a predetermined period of time.

Regarding claim 24, this claim depends from independent claim 20, which Applicant has previously asserted is patentably distinguished over Broyles. For

at least this reason, Applicant respectfully submits that claim 20 is patentably distinguished over Broyles.

Therefore, Applicant respectfully asserts that claims 1, 3, 8-10, 20 and 24 are in condition for allowance.

35 U.S.C. § 103(a) Rejection of Claims 4-7, 11, 22-23 and 25

The Examiner has rejected claims 4-7, 11, 22-23 and 25 under 35 U.S.C. § 103(a) as being considered to be unpatentable over Broyles.

Regarding claims 4-5, Applicant respectfully submits that claims 4-5 depend from independent claim 1, and therefore, incorporate all of the limitations of independent claim 1, which Applicant has asserted is patentably distinguished from Broyles. Furthermore, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (MPEP 2143.03). Applicant respectfully submits that Broyles does not teach or suggest all the features of Applicant's invention as recited in claims 4-5. As already acknowledged in the Office Action, Broyles does not teach or suggest the pressing and holding of a switch for either a specific 3 second period of time or for a variable amount of time as recited in claims 4 and 5, respectively. Furthermore, although the Office Action then asserts that "one of ordinary skill in the art would have been motivated to specify a period of time to hold the switch, since it is known that prior art apparatuses allow an amount of time ... to determine if firmware software is loaded..." while making reference to lines 3 and 5 of column 2 of Broyles, Applicant respectfully submits that Broyles does provide such a basis for such a motivation, because Broyles, both at the cited lines 3 and 5 of column 2, as well as throughout, teaches providing a 3 second period of time in which to either press a key of a keyboard, or not. In other

words, Broyles teaches providing a user with a time-limited opportunity in which to act by pressing a key of a keyboard if the user so desires. This teaching of a time-limited opportunity cannot provide a motivation for requiring a switch to be held for at least a minimum period of time. Furthermore, this attempt to assert that a motivation to require the minimum period of time recited in claims 4-5 arises from the teaching of allowing a time-limited opportunity in Broyles ignores the fundamentally different purposes sought to be achieved in Applicant's claimed invention and in Broyles. Applicant's claimed invention recites the conditioning of the loading of software to support an input device on the pressing and holding of a power switch for a predetermined period of time, while in contrast, Broyles teaches the provision of a time-limited opportunity in which to press a key of a keyboard to change a boot sequence. For at least these reasons, Applicant respectfully submits that claims 4-5 are patentably distinguished over Broyles.

Regarding claims 6-7 and 11, Applicant respectfully submits that claims 6-7 and 11 depend, directly or indirectly, from independent claim 1, and therefore, incorporate all of the limitations of independent claim 1, which Applicant has asserted is patentably distinguished over Broyles. For at least this reason, Applicant respectfully submits that claims 6-7 and 11 are patentably distinguished over Broyles.

Regarding claims 22-23, Applicant respectfully submits that claims 22-23 depend from independent claim 20, and therefore, incorporate all of the limitations of independent claim 20, which Applicant has asserted is patentably distinguished from Broyles. Furthermore, to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). (MPEP 2143.03). Applicant respectfully submits that Broyles does not teach or suggest

all the features of Applicant's invention as recited in claims 22-23. As already acknowledged, twice, in the Office Action, Broyles does not teach or suggest the pressing and holding of a switch for either a specific 3 second period of time or for a variable amount of time as recited in claims 22 and 23, respectively. Furthermore, although the Office Action again asserts (as was the case with regard to claims 4-5) that "one of ordinary skill in the art would have been motivated to specify a period of time to hold the switch, since it is known that prior art apparatuses allow an amount of time ... to determine if firmware software is loaded..." while again making reference to lines 3 and 5 of column 2 of Broyles, Applicant again respectfully submits that Broyles does provide such a basis for such a motivation for the reasons previously discussed with regard to claims 4-5. As previously discussed, Broyles teaches providing a user with a time-limited opportunity in which to act by pressing a key of a keyboard if the user so desires, and this teaching of a time-limited opportunity cannot provide a motivation for requiring a switch to be held for at least a minimum period of time. Furthermore and again, this attempt to assert that a motivation to require the minimum period of time recited in claims 22-23 arises from the teaching of allowing a time-limited opportunity in Broyles ignores the fundamentally different purposes sought to be achieved in Applicant's claimed invention and in Broyles, as also previously discussed. For at least these reasons, Applicant respectfully submits that claims 22-23 are patentably distinguished over Broyles.

Regarding claim 25, Applicant respectfully submits that claim 25 depends from independent claim 20, and therefore, incorporates all of the limitations of independent claim 20, which Applicant has asserted is patentably distinguished over Broyles. For at least this reason, Applicant respectfully submits that claim 25 is patentably distinguished over Broyles.

Therefore, Applicant respectfully asserts that claims 4-7, 11, 22-23 and 25 are in condition for allowance.

Rejection of Claims 12-19

The Examiner has deemed claims 12-19 to "constitute the method oriented to the apparatus disclosed in claims 1-11" and has rejected claims 12-19 "under the same rationale." Although, as a result, specific rejections were provided in the Office Action with regard to specific ones of claims 12-19, Applicant endeavors to answer what Applicant presumes are the specific rejections intended by the Examiner against each one of claims 12-19. Applicant has cancelled claim 13, thereby obviating any rejection of this claim.

Regarding claim 12, Broyles does not disclose measuring the amount of time a power switch is pressed to differentiate between the power switch being pressed and held, and being pressed, but not held. Also, as previously discussed, Broyles also does not disclose conditioning the loading of software to support an input device contained in firmware on the pressing and holding of a power switch. Broyles discloses the altering of a boot sequence in response to the pressing of a hotkey on an input device, and discloses a keyboard as an exemplary input device. For at least this reason, Applicant respectfully submits that claim 25 is patentably distinguished over Broyles.

Although Applicant has cancelled claim 13, Applicant does respectfully submit that although Broyles discloses a power switch, as previously discussed, Broyles does not disclose the loading of software to support an input device being conditioned on the pressing and holding of a power switch.

Regarding claim 14, this claim depends from independent claim 12, which Applicant has previously asserted is patentably distinguished over Broyles. For

at least this reason, Applicant respectfully submits that claim 12 is patentably distinguished over Broyles.

Regarding claim 15, Broyles does not disclose conditioning the execution of setup software on the pressing and holding of a switch, including a power switch. Furthermore, claim 15 depends from independent claim 12, which Applicant has previously asserted is patentably distinguished over Broyles. For at least these reasons, Applicant respectfully submits that claim 15 is patentably distinguished over Broyles.

Regarding claims 16-17, Applicant respectfully submits that claims 16-17 depend from independent claim 12, and therefore, incorporate all of the limitations of independent claim 12, which Applicant has asserted is patentably distinguished from Broyles. Furthermore, Applicant respectfully submits that Broyles does not teach or suggest all the features of Applicant's invention as recited in claims 16-17. As already acknowledged, twice, in the Office Action, Broyles does not teach or suggest the pressing and holding of a switch for either a specific 3 second period of time or for a variable amount of time as recited in claims 16 and 17, respectively. Furthermore, as previously discussed, Applicant again respectfully submits that Broyles does provide such a basis for a motivation to require a power switch to pressed and held for a predetermined period of time. As previously discussed, Broyles teaches providing a user with a time-limited opportunity in which to act by pressing a key of a keyboard if the user so desires, and this teaching of a time-limited opportunity cannot provide a motivation for requiring a switch to be held for at least a minimum period of time. Furthermore and again, any attempt to assert that a motivation to require the minimum period of time recited in claims 16-17 arises from the teaching of allowing a time-limited opportunity in Broyles ignores the fundamentally different purposes sought to be achieved in Applicant's claimed invention and in

Broyles, as also previously discussed. For at least these reasons, Applicant respectfully submits that claims 16-17 are patentably distinguished over Broyles.

Regarding claims 18-19, Applicant respectfully submits that claims 18-19 depend, directly or indirectly, from independent claim 12, and therefore, incorporate all of the limitations of independent claim 12, which Applicant has asserted is patentably distinguished over Broyles. For at least this reason, Applicant respectfully submits that claims 18-19 are patentably distinguished over Broyles.

Therefore, Applicant respectfully asserts that claims 12 and 14-19 are in condition for allowance.

Rejection of Claims 26-30

The Examiner has deemed claims 26-30 to be "oriented to computer readable mediums for the apparatus disclosed in claims 1-11" and has rejected claims 26-30 "under the same rationale." Although, as a result, specific rejections were provided in the Office Action with regard to specific ones of claims 26-30, Applicant endeavors to answer what Applicant presumes are the specific rejections intended by the Examiner against each one of claims 26-30. Applicant has cancelled claim 27 and 29, thereby obviating any rejection of these claims.

Regarding claims 26 and 28, Broyles does not disclose measuring the amount of time a power switch is pressed to differentiate between the power switch being pressed and held, and being pressed, but not held. Also, as previously discussed, Broyles also does not disclose conditioning the loading of software to support an input device contained in firmware on the pressing and holding of a power switch. Broyles discloses the altering of a boot sequence in response to the pressing of a hotkey on an input device, and discloses a keyboard

as an exemplary input device. For at least this reason, Applicant respectfully submits that claims 26 and 28 are patentably distinguished over Broyles.

Although Applicant has cancelled claims 27 and 29, Applicant does respectfully submit that although Broyles discloses a power switch, as previously discussed, Broyles does not disclose the loading of software to support an input device being conditioned on the pressing and holding of a power switch.

Regarding claim 30, this claim depends from independent claim 28, which Applicant has previously asserted is patentably distinguished over Broyles. For at least this reason, Applicant respectfully submits that claim 30 is patentably distinguished over Broyles.

Therefore, Applicant respectfully asserts that claims 26, 28 and 30 are in condition for allowance.

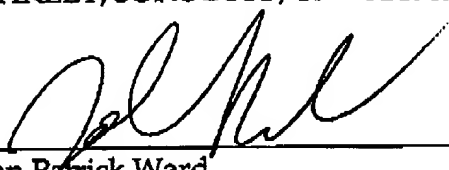
Condition for Allowance

Applicant submits that all rejections have been overcome and the present application is now in condition for allowance. If there are any additional charges or shortages related to the present communication, please charge our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 17, 2003



John Patrick Ward
Registration No. 40,216

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, CA 90025-1030
408-720-8300